

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN DIEGO REGION**

**IN THE MATTER OF:**

**KINDER MORGAN ENERGY PARTNERS, LP  
MISSION VALLEY TERMINAL  
9950 SAN DIEGO MISSION ROAD  
SAN DIEGO, CALIFORNIA  
WDID NO. 9 000000506**

**COMPLAINT NO. R9-2004-0080  
FOR**

**NONCOMPLIANCE WITH ORDER NO. R9-2001-  
0096, NPDES NO. CAG919002, GENERAL  
WASTE DISCHARGE REQUIREMENTS FOR  
GROUNDWATER EXTRACTION WASTE  
DISCHARGES FROM CONSTRUCTION,  
REMEDICATION, AND PERMANENT  
GROUNDWATER EXTRACTION PROJECTS  
TO SURFACE WATERS WITHIN THE SAN  
DIEGO REGION, EXCEPT FOR SAN DIEGO  
BAY**

**ADMINISTRATIVE CIVIL LIABILITY  
WITH  
MANDATORY MINIMUM PENALTY**

**MARCH 11, 2004**

**KINDER MORGAN ENERGY PARTNERS, LP IS HEREBY GIVEN NOTICE THAT:**

1. Kinder Morgan Energy Partners, LP (Kinder Morgan) is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, Water Code section 13385 et seq.
2. A public hearing on this matter is tentatively scheduled before the Regional Board on May 12, 2004, at the City of Laguna Beach Council Chambers, 505 Forest Avenue, Laguna Beach, California. The meeting will begin at 9:00 a.m. At the hearing, Kinder Morgan will have the opportunity to be heard and to contest the allegations in this Complaint and the imposition of civil liability by the Regional Board. Additional notice of this public hearing and the hearing procedures will be provided to Kinder Morgan prior to the hearing date with the agenda for the Regional Board meeting.
3. At the hearing, the Regional Board will determine the validity of the allegations contained herein and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by this Complaint, or in some other amount.

**ALLEGATION**

4. Sometime between October 15, 2001 and December 31, 2001 Kinder Morgan violated Order No. R9-2001-0096, *NPDES No. CAG919002, General Waste Discharge Requirements for Groundwater Extraction Waste Discharges From Construction*,

March 11, 2004

*Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region, Except for San Diego Bay.* This violation is due to an exceedance of the Selenium Discharge Specification as reported in the Semi-Annual (July 2001 – December 2001) Monitoring Report.

5. The following facts are the basis for the alleged violation in this matter:
  - a. Kinder Morgan is the owner of Mission Valley Terminal located at 9950 San Diego Mission Road, San Diego, California, and is enrolled under Order No. R9-2001-0096 to discharge remediated groundwater to Murphy Canyon Creek (WDID No. 9 000000506).
  - b. The Discharge Specifications' section of Order No. R9-2001-0096 states that the Selenium Average Monthly Effluent Limitation is 5 µg/L. On February 5, 2002, the Regional Board received Kinder Morgan's 2001 Semi-Annual monitoring report. Sometime between October 15, 2001 and December 31, 2001, a Selenium Average Monthly result of 11 µg/L, more than 20% greater than the Effluent Limitation, was reported.
  - c. Water Code Section 13385(h)(2) states that a "serious violation" means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more. Selenium is a Group II pollutant.
6. Water Code Section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. Under Water Code section 13385(h) the amount of the mandatory minimum penalty that must be assessed is \$3,000 for the serious violation.

#### **PROPOSED CIVIL LIABILITY**

7. Pursuant to Section 13385 (h) of the Water Code a mandatory minimum penalty should be imposed on Kinder Morgan Energy Partners, LP by the Regional Board in the amount of \$3,000, the amount of the mandatory minimum penalty, for the above violation.

Dated this 11<sup>th</sup> day of March 2004.

  
JOHN H. ROBERTUS  
Executive Officer